

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



July 10, 2003

CSS LETTER: 03-14

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: CONSUMER CREDIT REPORT

There have been two recent developments regarding requests for consumer credit reports to bring to the attention of the local child support agencies (LCSAs).

First, the case of *Hasbun v. County of Los Angeles*, 323 F.3d 801 (9th Cir. 2003) was recently published by the Ninth Circuit Court of Appeals. The issue addressed by this case was when and how an LCSA may obtain the consumer credit report of an individual who owes child support arrears. The court found a distinction in the Fair Credit Reporting Act (FCRA) between cases where the LCSAs are attempting to establish a child support order and cases where a child support order has already been established and the obligor owes a child support debt.

The court concluded that:

When requesting a consumer credit report to **establish** an individual's capacity to pay support or to determine the appropriate amount of a child support payment, the LCSA must comply with the certification requirements contained in 15 U.S.C. §1681b(a)(4). That is, at least 10 days prior to the request for the consumer credit report, the LCSA must send notification by certified or registered mail to the person whose report is being requested, to the last known address of the consumer, and inform him or her that the consumer credit report will be requested. The LCSA must keep the consumer report confidential and it may be used solely for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments.

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS



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The court found however that in cases where the consumer credit report is being requested by LCSAs attempting to **enforce** a court-ordered judgment of child support, the certification requirements are not applicable pursuant to 15 U.S.C. §1681b(a)(3)(A). Therefore, in cases where a child support order has already been established and the obligor owes child support arrears that the LCSA is attempting to collect, the LCSA may request the obligor's consumer credit report without prior notice to the obligor.

Second, there have been questions raised regarding how Chapter 720, Statutes of 2001, (SB 168) affects the LCSAs' request for consumer credit reports. Beginning January 1, 2003, Chapter 720, adds Civil Code section 1785.11.2 to allow consumers to request the consumer credit reporting agency place a "security freeze" on the consumer's credit report. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or information from it without the expressed authorization from the consumer.

Civil Code §1785.11.2(l)(4) specifically exempts that LCSA from the security freeze. This section provides that the provisions of the security freeze do not apply to the use of a consumer credit report by a child support agency acting pursuant to Title IV-D of the Social Security Act.

If you have any questions or concerns regarding this matter, please contact Anna L. Maves, Staff Counsel, at (916) 464-5181.

Sincerely,

DONNA S. HERSHKOWITZ
Deputy Director
Child Support Services Division